

United States District Court
Western District Of New York

Lionell Nelson,

Plaintiff

v.

Larry Gleason, et al,

Defendants



Motion For Enforcement For
Requested Sanctions And
For Admissions

1:14-cv-00870-RJA-HBS

Plaintiff hereby moves this Court for Enforcement for requested Sanctions in accordance to Fed. R. Civ. P. 16(f) and Defendants Admissions to Plaintiffs' previous request for disclosure of documents, failure to respond to Motions in accordance to Fed. R. Civ. P. 36.

FACTS

1. Upon further inspection of records received through the office of the Inspector General some of the pages is doubles of the same documents, which Plaintiff believes was done deliberately to make seem like the Defendant's disclosed a lot of documents. Most of the pages has no relevance to the complaint itself. Rather than Defendants being honest an enclose documents which would be much needed by Plaintiff, Defendants is taken it upon themselves to withhold key evidentiary documents. Please remember Plaintiff asked to reserve making a request that the Court do an accounting on this issue for postage and the cost of documents not being sent with what was useful that was sent. Please see ; paragraph 12 of previous Motion , Docket # 42.

2. The Defendant's was ordered to respond to Plaintiffs' Motion to Compel and for Sanctions by 4-21-17, an it's now 4-26-17 and there has been no response submitted or request for a Extension of Time by Defendant's. Plaintiff waited an additional (5) days before submitting this motion in order to have his own response which is due on 4-28-17.
3. Defendant's continues to not comply with the Court Orders and rules set forth by this Court. Defendant's lack of activity in this case is rude and disrespectful towards this Court and Plaintiff. The only time they seem to want to participate or acknowledge any reference to this case is when the Court allows them to submit late documents after numerous warnings or if there's a chance Plaintiff may have a chance of a detrimental ruling going in his favor. Such tardiness in the past and present is not fair to the Plaintiff. Defendant continues to show prejudice towards Plaintiff by not providing much needed documents that can be used to argue his case with as evidence.
4. In Docket #18, Scheduling Order, both parties is directed to Fed.R.Civ.P. 16 (f) calling for sanctions in the event of failure to comply with any direction of this Court. Since Defendant's attorney has made no attempt to extend the time to answer by stipulation or court order prior to , Plaintiff request that the sanctions requested be enforced.

5. Plaintiff's past attempt for Entry Of Default Judgment was denied when Defendant's submitted a late Answer with the claim of law office failure. Plaintiff wants to remind the Court that Defendant's did not request a Extension of time nor did they present actual proof to support their claim for law office failure when filing their Answer. To just claim law office failure which are conclusory and unsubstantiated cannot excuse default. Defendant's claim of law office failure being conclusory, perfunctory and unsubstantiated is insufficient to avoid the entry of default judgment.

6. Furthermore, since Defendant's continue to fail to comply with this Court rules and orders by not disclosing, or retaining records and timely responding to any of Plaintiff's request of Interrogatories, Production Of Documents, Motion to Compel and for Sanctions Submitted as directed to do so by this Court, Plaintiff by this Motion request for the following sanctions be enforced:

- (A) Render a Default Judgment against the disobedient Defendants.
- (B) Demand that the Defendant's make a reasonable settlement offer compare to what is being requested by Plaintiff.
- (C) Defendant not be allowed to submit any late answers or file for Summary Judgment and dismissal at any time during this case.
- (D) Any and all Sanctions that the Court may deem also proper at this time and moving forward.

Dated: 4-26-17 Dannemora NY 12929 L.Nelson, Pro Se

Declaration Of Service ... 1:14-cv-00870-RJA-HBS

I Lionell Nelson, being first duly sworn says:

1. I am the Plaintiff/Petitioner in the above entitled action.
2. I've read the foregoing Motion and know the contents thereof, and that the same is true to my own knowledge, declared under perjury.
3. I served a true copy of Motion For Enforcement For Requested Sanctions And For Admissions on the following parties by placing said documents in a properly addressed envelopes with postage prepaid and placing said envelopes in the prison mailbox located at Clinton Corr. Fac., Box 2001, Dannemora NY 12929.

- (1) Clerk Of The Court
- (2) Honorable Hugh B. Scott
- (3) David J. Sleight, AAG of Counsel

Dated: April 26, 2017

Dannemora, NY 12929

Respectfully Submitted

L. Nelson #10A2357
Lionell Nelson, Pro Se

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
CLINTON CORRECTIONAL FACILITY
P.O. BOX 2001
DANNEMORA, NEW YORK 12929

NAME: Lionell Nelson DIN: 10A2357

Clinton



Correctional Facility

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Clerk Of The Court
Western District Of New York
U.S. Courthouse
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Buffalo, NY 14202

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